

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

JOHN BRADY LAYNE,  
Plaintiff,

vs.

Case No. 3:07cv108/LAC/EMT

JAMES McDONOUGH, et al.,  
Defendants.

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**ORDER**

This cause is before the court on Plaintiff's filing a Request to Amend Petition (Doc. 8). Plaintiff has previously filed a motion to proceed in forma pauperis which the court denied because the motion was incomplete (*see* Docs. 2, 4). On March 14, 2007, Plaintiff was ordered to either pay the \$350.00 filing fee or submit a completed motion to proceed in forma pauperis with the requisite documentation on or before April 13, 2007 (*see* Doc. 4 at 2).

In the instant motion, Plaintiff seeks to amend his complaint to specify that he names each Defendant in their individual capacity (*see* Doc. 8 at 1). Additionally, Plaintiff seeks leave to be permitted to pay ten dollars a month towards the cost of this action (*see id.*). To date, Plaintiff has not filed a completed motion to proceed in forma pauperis or paid the filing fee.

To the extent that Plaintiff seeks to amend his complaint the motion shall be granted. Regarding the filing fee, however, Plaintiff's motion shall be denied to Plaintiff's filing of a motion to proceed in forma pauperis or payment of the \$350.00 filing fee.

Accordingly, it is **ORDERED**:

1. Plaintiff's motion to amend (Doc. 8) is **GRANTED IN PART AND DENIED IN PART**. The motion is **GRANTED** to the extent that it seeks to specify that Plaintiff sues Defendants in their individual capacity. The motion is **DENIED** to the extent that it seeks permission to proceed without paying the filing fee or filing a completed in forma pauperis motion.

2. As previously ordered, on or before **APRIL 13, 2007**, Plaintiff shall (1) pay the \$350.00 filing fee or (2) submit a completed motion to proceed in forma pauperis with the requisite prisoner consent form and financial certificate including an attached computer printout of the transactions in his account during the proceeding six month period (*see* Doc. 4).

3. Failure to comply with this order as instructed may result in a recommendation that this case be dismissed for failure to comply with an order of the court.

**DONE AND ORDERED** this 27<sup>th</sup> day of March 2007.

*/s/ Elizabeth M. Timothy*  
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**ELIZABETH M. TIMOTHY**  
**UNITED STATES MAGISTRATE JUDGE**